

37 Am. Jur. 2d Fraud and Deceit § 185

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Fraud and Deceit

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IV. False Representations

G. Representations and Statements as to Particular Matters

4. Credit, Solvency, and Financial Standing

§ 185. Representations as to one's own financial status

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West's Key Number Digest

West's Key Number Digest, [Fraud](#), [27](#), [28](#)

The rule is well established that false representations, factual in nature and made by a person concerning the person's own credit, solvency, or financial position or ability, constitute the basis for a charge of fraud,¹ at least when they are relied upon by the party or parties to whom they are made.² Such representations constitute a fraud that will either sustain an action of deceit³ or be grounds for rescinding a commercial transaction made in reliance thereon⁴ although more than a mere overestimate of the value of the representor's property by a representor is necessary before the representor can be held guilty of fraud in contracting a debt.⁵

In many cases, false representations by borrowers that are made in financial statements submitted as the basis for loans or extensions of credit constitute actionable fraud.⁶ Actions for fraudulent representations in such financial statements must be predicated upon those representations which are material in nature and form an inducement to the transaction.⁷ Materiality may be a question of law or fact but must embrace a subject relating to the borrower's financial condition that constituted a moving factor resulting in the action of the lender.⁸

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Footnotes

¹ [Monier v. Guaranty Trust Co. of New York](#), 82 F.2d 252, 104 A.L.R. 912 (C.C.A. 2d Cir. 1936); [Manly v. Ohio Shoe Co.](#), 25 F.2d 384, 59 A.L.R. 413 (C.C.A. 4th Cir. 1928); [Bicknell v. Stanley](#), 118 B.R. 652 (S.D. Ind. 1990) (applying Indiana law).

The rule is applicable where the performance of services is secured by the false representation as to financial responsibility. [Hunt v. Lewis](#), 87 Vt. 528, 90 A. 578 (1914).

- 2 Paron Capital Management, LLC v. Crombie, 2012 WL 2045857 (Del. Ch. 2012).
3 Henry v. Dennis, 95 Me. 24, 49 A. 58 (1901).
4 Monier v. Guaranty Trust Co. of New York, 82 F.2d 252, 104 A.L.R. 912 (C.C.A. 2d Cir. 1936); In re
Weissman, 19 F.2d 769, 53 A.L.R. 644 (C.C.A. 2d Cir. 1927); Manly v. Ohio Shoe Co., 25 F.2d 384, 59
A.L.R. 413 (C.C.A. 4th Cir. 1928).
5 South Branch Lumber Co. v. Ott, 142 U.S. 622, 12 S. Ct. 318, 35 L. Ed. 1136 (1892).
6 Hinton v. Equitable Loan Co., 41 Ga. App. 815, 155 S.E. 101 (1930); First State Sav. Bank of Muskegon
Heights v. Dake, 250 Mich. 525, 231 N.W. 135 (1930).
7 Hills Sav. Bank v. Cress, 205 Iowa 306, 218 N.W. 74 (1928).
8 Hills Sav. Bank v. Cress, 205 Iowa 306, 218 N.W. 74 (1928); First State Sav. Bank of Muskegon Heights
v. Dake, 250 Mich. 525, 231 N.W. 135 (1930).

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